



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency:

Department of Retirement Systems

- ☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:**Permanent Rules**

- ☒ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:**Emergency Rules**

- ☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- ☐ Yes ☒ No If Yes, explain: _____

Purpose: To clarify portability provisions for retroactive retirement.

Citation of existing rules affected by this order:

Repealed:

Amended: WAC 415-113-080

Suspended:

Statutory authority for adoption: RCW 41.50.050(5)

Other authority : ch 41.54 RCW

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 06-15-019 on July 7, 2006.

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name:

phone () _____

Address:

fax () _____

e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: _____

Date adopted: August 23, 2006

NAME (TYPE OR PRINT)

Sandra J. Matheson

SIGNATURE

Sandra J. Matheson

TITLE

Director

CODE REVISER USE ONLY

CODE REVISER'S OFFICE STATE OF WASHINGTON FILED	
AUG 24 2006	
TIME	10:31
WSR	06-18-008
	AM PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>1</u>	Repealed	_____

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-113-080 ((Can I retire retroactively?)) May I receive a retroactive payment from a prior system? ((You may retire retroactively. If you retire from all dual member systems, your retirement allowance from a prior system will be retroactive back to your accrual date under the prior system.

(1) Accrual date determined. The department will determine your accrual date in each system by combining your total service and applying the statute or rule designating accrual dates in the particular system. Your accrual date for purposes of this section is the date that your combined service first makes you eligible for an unreduced benefit.

Example 11: A person is a fifty-five year old member participant in PERS Plan 2 and a nonmember participant in LEOFF Plan 2. The person decides not to retire from LEOFF Plan 2 until he is eligible to retire with full benefits from PERS Plan 2 at age sixty five. Upon retirement, he will be entitled to a LEOFF Plan 2 retirement allowance effective on his accrual date under LEOFF Plan 2 (i.e., age fifty-five).

Example 12: A person with twenty years of prior service in TRS Plan 1 becomes a member participant in PERS Plan 2 on her fifty-fourth birthday. By combining her service in both systems under chapter 41.54 RCW, she will become eligible to retire under TRS Plan 1 at age fifty-nine with twenty-five total years of service. Assume she retires from both systems at age sixty five. Her TRS Plan 1 retirement allowance will be effective back to the date it accrued under TRS Plan 1 (i.e., the first of month following the month she turns fifty nine).

(2) You cannot use salary earned after your accrual date in calculating your retroactive benefit. If you retire retroactively from a prior system, the department will not use any of the salary you earned after your accrual date to compute your benefit from the prior system.

Example 13: A PERS Plan 1 member receives a salary of \$3,000

~~per month. She has 30 years of service credit at age 50 and is eligible to retire with an unreduced (full) benefit.~~

~~Subsequently, she is offered a TRS Plan 3 covered position at a monthly salary of \$3,500. If she accepts the TRS Plan 3 position, will she be able to use its higher monthly salary of \$3,500 as base salary to calculate her PERS Plan 1 retirement benefit when she does retire? No, she will not. The TRS Plan 3 salary would have been earned after the PERS Plan 1 accrual date: The date that she first became eligible to retire with an unreduced benefit under PERS Plan 1 rules.~~

~~(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.~~

~~(a) "Dual member system" WAC 415-113-030.~~

~~(b) "Member participant" WAC 415-113-030.~~

~~(c) "Nonmember participant" - WAC 415-113-030.)) (1)~~

Eligibility. You are eligible to receive a retroactive payment from a prior system if:

(a) You retire with a multiple system benefit according to WAC 415-113-055; and

(b) You were eligible to retire from a prior system with an unreduced benefit before the date of your multiple system retirement.

(2) **Accrual date.** At the time of your retirement from all dual member systems, you must choose the date on which the benefit from your prior system will accrue. This may be any date on or after the date you first became eligible for an unreduced retirement allowance from that system. The date you choose will affect your monthly retirement allowance from that system and your retroactive payment.

(3) **Monthly retirement allowance from prior system.** Your monthly retirement allowance from your prior system will be calculated under the rules of that system.

(a) **Service credit.** Your service credit is the actual credit earned in the prior system.

(b) **Average compensation.** Your average compensation is calculated under the rules in WAC 415-113-030(2) and 415-113-065. If you substitute base salary from another system, the base salary must have been earned prior to your chosen accrual date.

(4) **Retroactive payment.** Your retroactive payment will be computed by multiplying:

(a) The amount of your monthly retirement allowance in subsection (3) of this section; by

(b) The number of months from your accrual date to the

month your first monthly retirement allowance is paid.

Example. Tom became a member of LEOFF 2 on January 1, 1981, and remained a member through December 31, 2000. He earned 20 years of service credit. Tom reached age 48 on December 31, 2000. His highest years of compensation in LEOFF 2 were as follows:

<u>1996</u>	--	<u>\$49,200/year</u>
<u>1997</u>	--	<u>\$50,400/year</u>
<u>1998</u>	--	<u>\$51,600/year</u>
<u>1999</u>	--	<u>\$52,800/year</u>
<u>2000</u>	--	<u>\$54,000/year</u>


Tom became a member of PERS 2 on January 1, 2001. He separated from service on December 31, 2014. He earned 14 years of service credit. On December 31, 2005, Tom reached age 53 and met the eligibility requirements for an unreduced retirement from his prior system (LEOFF 2). During the period of his PERS employment, Tom's compensation was as follows:

<u>2001</u>	--	<u>\$55,200/year</u>	<u>2006</u>	--	<u>\$84,000/year</u>	<u>2011</u>	--	<u>\$90,000/year</u>
<u>2002</u>	--	<u>\$56,400/year</u>	<u>2007</u>	--	<u>\$85,200/year</u>	<u>2012</u>	--	<u>\$91,200/year</u>
<u>2003</u>	--	<u>\$57,600/year</u>	<u>2008</u>	--	<u>\$86,400/year</u>	<u>2013</u>	--	<u>\$92,400/year</u>
<u>2004</u>	--	<u>\$81,600/year</u>	<u>2009</u>	--	<u>\$87,600/year</u>	<u>2014</u>	--	<u>\$93,600/year</u>
<u>2005</u>	--	<u>\$82,800/year</u>	<u>2010</u>	--	<u>\$88,800/year</u>			


Upon separation on December 31, 2014, Tom chooses to retire from both LEOFF 2 and PERS 2 with a multiple system benefit. Because Tom met the eligibility requirements for an unreduced benefit from LEOFF 2 on December 31, 2005, he may choose an accrual date on or after January 1, 2006. His benefit will vary depending on the accrual date chosen. For example, an accrual date of January 1, 2006, yields a different result from an accrual date of January 1, 2009, as shown in Option 1 and Option 2 below. Tom may also retire from both systems with a January 1, 2015, effective date, as shown in Option 3.

Option 1: Accrual date of January 1, 2006. Tom chooses January 1, 2006, as the accrual date for his LEOFF 2 benefit.

Monthly allowance: The department will compare Tom's average compensation in LEOFF 2 with his highest sixty consecutive months of base salary in PERS 2, and will use whichever is greater in the calculation of his LEOFF 2 monthly allowance. Note: Tom's PERS 2 base salary must have been earned prior to January 1, 2006.

 Tom's average compensation, based on his highest sixty consecutive months of service in LEOFF 2, is:

$$\frac{\$49,200 + \$50,400 + \$51,600 + \$52,800 + \$54,000}{60} = \$4,300/\text{month}$$

 Tom's base salary, based on his highest sixty consecutive months of service in PERS 2, is:

$$\frac{\$55,200 + \$56,400 + \$57,600 + \$81,600 + \$82,800}{60} = \$5,560/\text{month}$$

The highest average compensation, i.e., \$5,560/month, will be used in the calculation of Tom's LEOFF 2 monthly allowance.

	<u>LEOFF 2 Benefit Calculation</u>	<u>PERS 2 Benefit Calculation¹</u>
Service credit	20 yrs	14 yrs
Average compensation	\$5,560/month	\$7,600/month
2% monthly benefit	$2\% \times 20 \times \$5,560$ $= \$2,224/\text{month}^2$	$2\% \times 14 \times \$7,600$ $= \$2,128/\text{month}$

Retroactive payment. Tom will receive a retroactive payment representing monthly retirement payments from January 1, 2006 (accrual date), through December 31, 2014, including applicable COLAs. This is nine years or one hundred eight monthly payments. His retroactive payment will be \$240,192, calculated as follows:


$$108 \times \$2,224 = \$240,192$$

(This assumes no COLAs were given during the nine-year period. If COLAs were given, the retroactive payment would be greater.)


Total multiple system benefit (LEOFF 2 and PERS 2): Tom will receive a retroactive payment of \$240,192 from LEOFF 2. He will receive a total monthly allowance of \$4,352 (\$2,224 from LEOFF 2 and \$2,128 from PERS 2), beginning January 1, 2015.

Option 2: Accrual date of January 1, 2009. Tom chooses January 1, 2009, as the accrual date for his LEOFF 2 benefit.

Monthly allowance: The department will compare Tom's average compensation in LEOFF 2 with his highest sixty consecutive months of base salary in PERS 2, and will use whichever is greater in the calculation of his LEOFF 2 monthly allowance. Note: Tom's PERS 2 base salary must have been earned prior to January 1, 2009.

 Tom's average compensation, based on his highest sixty consecutive months of service in LEOFF 2, is:

$$\frac{\$49,200 + \$50,400 + \$51,600 + \$52,800 + \$54,000}{60} = \$4,300/\text{month}$$

 Tom's base salary, based on his highest sixty consecutive months of service in PERS 2, is:

$$\frac{\$81,600 + \$82,800 + \$84,000 + \$85,200 + \$86,400}{60} = \$7,000/\text{month}$$

The highest average compensation, i.e., \$7,000/month, will be used in the calculation of Tom's LEOFF 2 monthly allowance.

	<u>LEOFF 2 Benefit Calculation</u>	<u>PERS 2 Benefit Calculation¹</u>

Service credit	20 yrs	14 yrs
Average compensation	\$7,000/month	\$7,600/month
2% monthly benefit	$2\% \times 20 \times \$7,000 =$ \$2,800/month	$2\% \times 14 \times \$7,600 =$ \$2,128/month

Retroactive payment. Tom will receive a retroactive payment representing monthly retirement payments from January 1, 2009 (accrual date), through December 31, 2014, including applicable COLAs. This is six years or seventy-two monthly payments. His retroactive payment will be \$201,600, calculated as follows:


$$72 \times \$2,800 = \$201,600$$

(This assumes no COLAs were given during the six-year period. If COLAs were given, the retroactive payment would be greater.)


Total multiple system benefit (LEOFF 2 and PERS 2): Tom will receive a retroactive payment of \$201,600 from LEOFF 2. He will receive a total monthly allowance of \$4,928 (\$2,800 from LEOFF 2 and \$2,128 from PERS 2), beginning January 1, 2015.

Option 3: Accrual date of January 1, 2015 (no retroactive payment). Tom is not required to choose a retroactive payment from his prior system. He may choose a multiple system benefit of \$5,168/month calculated as follows:

Monthly allowance: The department will compare Tom's average compensation in LEOFF 2 with his highest sixty consecutive months of base salary in PERS 2, and will use whichever is greater in the calculation of his LEOFF 2 monthly allowance.

 Tom's average compensation, based on his highest sixty consecutive months of service in LEOFF 2, is:

$$\frac{\$49,200 + \$50,400 + \$51,600 + \$52,800 + \$54,000}{60} = \$4,300/\text{month}$$

 Tom's base salary, based on his highest sixty consecutive months of service in PERS 2, is:

$$\frac{\$88,800 + \$90,000 + \$91,200 + \$92,400 + \$93,600}{60} = \$7,600/\text{month}$$

The highest average compensation, i.e., \$7,600/month, will be used in the calculation of Tom's LEOFF 2 monthly allowance.

	<u>LEOFF 2</u>	<u>PERS 2</u>
Service credit	20 yrs	14 yrs
Average compensation	\$7,600/month	\$7,600/month ¹
2% monthly benefit	$2\% \times 20 \times \$7,600 =$ \$3,040/month	$2\% \times 14 \times \$7,600 =$ \$2,128/month

Total multiple system benefit (LEOFF 2 and PERS 2): Tom will not receive a retroactive payment. He will receive a total monthly allowance of \$5,168 (\$3,040 from LEOFF 2 and \$2,128 from PERS 2), beginning January 1, 2015.

¹Tom's PERS 2 allowance will be based on sixty consecutive months of PERS service, which yields a

greater AFC than sixty consecutive months of LEOFF 2
base salary.

$$\underline{\$88,800 + \$90,000 + \$91,200 + \$92,400 + \$93,600 = \$7,600/\text{month}}$$

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His PERS 2 allowance is NOT affected by his retroactive
payment from LEOFF or by the accrual date he chooses.

²In certain cases, an increased benefit may be
available from LEOFF Plan 2 (WAC 415-113-084).